

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

KEVIN O. HARPER,

Plaintiff,

v.

SUE NOVAK, et al.

Defendants.

ORDER

Case No. 20-cv-592-jdp

On July 6, 2020, I entered an order assessing plaintiff Kevin O. Harper an initial partial payment of \$1.53 in the above case. Now plaintiff has filed a motion explaining why he cannot pay the filing fee, which I will construe as a motion to waive the initial partial filing fee. Dkt. 7. I will deny without prejudice plaintiff's motion for the following reasons.

In 28 U.S.C. § 1915, Congress has dictated the manner in which prisoners must pay the fees for filing federal lawsuits and appeals, and I have no discretion to modify this method. In calculating the amount of plaintiff's initial partial payment in this case, I used the first inmate account statement plaintiff submitted on July 6, 2020, in support of his for leave to proceed without prepaying the fee. Dkt. 5. That inmate account statement shows that plaintiff has had deposits made to his account, which I was able to calculate plaintiff's average monthly deposits to be \$1.53. In addition, the second inmate account statement plaintiff submitted on July 6, 2020 (at dkt. 8) shows that plaintiff receives deposits and currently has money in his release account.

However, I will give plaintiff an extension of time until August 3, 2020, to submit the \$1.53 initial partial payment. If by August 3, plaintiff is still unable to pay the \$1.53 initial partial payment, plaintiff should submit documentation that shows the efforts that he has taken to request the \$1.53 initial partial payment from the institution business office.

ORDER

IT IS ORDERED that:

1. Plaintiff Kevin O. Harper's motion to waive the initial partial payment in the above case, dkt. 7, is DENIED without prejudice.
2. Plaintiff may have an enlargement of time to August 3, 2020, in which to submit a check or money order payable to the clerk of court in the amount of \$1.53. If plaintiff does not have enough money in his regular account to pay the \$1.53 initial partial payment, plaintiff may use funds from his release account to pay the \$1.53 initial partial payment.
3. If, by August 3, 2020, plaintiff fails to make the \$1.53 initial partial, or to show cause for his failure to do so, plaintiff will be held to have withdrawn the action voluntarily and the case will be closed without prejudice to plaintiff's filing this case at a later date.

Entered this 13th day of July, 2020.

BY THE COURT:

/s/
PETER OPPENEER
Magistrate Judge